



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**955 CIVIL APPLICATION NO. 5204 OF 2024
IN FA/1319/2003**

**BHAGIRATHIBAI TRMBAK GAIKWAD AND ANR
VERSUS
THE ORIENTAL INSURANCE CO.LTD THR BRANCH MANAGER
AND ANR**

...

Mr. Chincholkar Ganpat Niranjn, Advocate for Applicant
Mr. V. N. Upadhye, Advocate for the respondent No.1

CORAM : Y. G. KHOBRADE, J.

Dated : 28th February, 2025

PER COURT :-

1. Heard Shri G.N. Ghincholkar, the learned counsel for the applicants/claimants and Mr. Upadhyay, the learned counsel for the non applicant Insurance company at length.
2. By the present application, the applicant claimant prayed for issuance of directions against the non applicant Insurance company to deposit the decretal amount with interest as per judgment and order dated 18.02.2019 passed in First Appeal No.1319/2003, before this Court.
3. The learned counsel appearing for the applicant invited my attention to the order dated 11.10.2024 passed by this Court

(Coram: D. G. Karnik, J.) in Civil Application No. 11109 of 2023 in First Appeal No. 1319 of 2003 which reads as under:

“Heard the learned counsel for the parties.

2. The learned counsel for the applicant/appellant states that the amount of Award has already been deposited in this Court. Hence, execution of the impugned Judgment and award is stayed till the final adjudication of First appeal. However, the respondents who are entitled to it shall be entitled for withdrawal of 50% of the deposited amount on furnishing a personal bond and the balance 50% of the amount on furnishing security to the satisfaction of the Registrar.

The Civil Application is accordingly disposed off.”

4. The learned counsel appearing for applicant/claimant stated that the amount of award has been already deposited in this Court and hence, execution of the impugned order is stayed till final disposal of the first appeal. However, the respondents/claimants shall be entitled for withdrawal of 50% of the deposited amount on furnishing personal bond and 50% amount on furnishing security to the satisfaction of the Registrar.

5. The learned counsel for the applicant claimants

canvassed that on 18.02.2019, this Court (Coram: P. R. Bora) finally decided the First Appeal No. 1319 of 2003 and permitted the present applicants claimants to withdraw the compensation deposited by the non applicant Insurance company in first appeal No. 1319 fo 2003. However, the non applicant insurance company has not deposited the said amount before this Court.

6. On verification it revealed the non applicant Insurance company has not deposited the said amount before this Court.

7. Mr. Viral s/o Bapuraro Durge, Administrative Officer (Legal), Oriental Insurance Company has filed affidavit in reply to the Civil Application and stated on solemn affirmation that he has gone through the contents of Civil application No. 5204 of 2024 and the judgment and order dated 18.02.2019 passed in First Appeal No. No.1319 of 2003 by this Court. The deponent further stated that the appellant Insurance Company has deposited the amount of Rs.25,000/- in terms of compliance of mandatory provisions of Section 173 of the Motor Vehicles Act through Cheque No. 405136 dated 26.03.2003 and after that an amount of 1,43,901, through cheque No 455574 dated 09.08.2023. The affidavit tendered on behalf fo the non applicant is taken on

record and marked 'X' for identification. However, this affidavit does not reflect in which Court the non applicant Insurance Company deposited the said amounts.

8. Therefore, issue show cause notice to the deponent Mr. Viral s/o Bapuraro Durge Administrative Officer (Legal), Oriental Insurance Company as to why the proceedings under the provisions of Contempt of Courts Act should not be initiated against him because the statement made by the applicant shows that the decretal amount as directed by this court has not been deposited before this Court.

9. Stand over to 07.03.2025.

(Y. G. KHOBRAGADE, J.)

JPChavan